

June 26, 2023

Re: White & Case Objection – Docker # 2840

Dear Honorable Judge Glenn,

I am writing to express my concern that the legal counsel to the Celsius UCC has filed an objection to a Pro Se motion (docket # 2240) put forth by Celsius Creditor, Mr Cacere. It is my understanding that Mr Cacere is advocating for fair and equal treatment of the CEL token. Specifically, that it receives the same pricing treatment as all the other Creditors' coins/tokens.


It appears the Celsius UCC, by the actions of their legal counsel, is asserting that CEL token claims should be subordinated. I am strongly against this action for the following reasons:

- Aaron Colodny of White & Case incorrectly combines Howey test criteria 3 and 4 in his objection, docket # 2840 thereby misrepresenting the legal criteria applied.
- White & Case is not providing any supporting evidence in their objection to illustrate that the Howey test has been met. Furthermore, the opinion of White & Case cannot be put forth as the same positions as the regulators who have yet to formally rule.
- Per the screenshot below from the Debtors own website, 56% of Celsius Creditors currently own CEL token. This would adversely impact the majority of Creditors.
- The Debtor has never officially or formally stated that CEL token was a Security.
- The Examiner Report makes no claim that CEL token was treated as a security.
- Simon Dixon, an active top 10 Celsius Creditor, makes clear that CEL token is NOT a security. Video Link here [https://twitter.com/crypto\\_btc/status/1569590103592546304](https://twitter.com/crypto_btc/status/1569590103592546304)
- Celsius Creditors currently hold dozens of other tokens that Celsius UCC is not attempting to subordinate Creditors' claims on.
- Despite the SEC claiming that the VGX token is a security in their suits against Binance and Coinbase, Voyager Creditors' VGX tokens are not being subordinated.
- With the SEC's recent lawsuits against Binance and Coinbase, there are now only a total of 68 named tokens that the SEC is officially claiming are securities and CEL tokens is still not among them.
- Even if regulators were to deem CEL token was a security, there is still no legal justification to subordinate Creditors' claims. I would submit that if you subordinate CEL token the same treatment would need to be applied to all coins except for Bitcoin, which is the only coin that the regulators have clearly state is not a security.
- The Celsius UCC is NOT honoring its fiduciary duty to maximize a recovery for all Creditors.

Respectfully,


Francois Schaller, Celsius Creditor

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←

 CEL	N/A	N/A	^
99,257,367.66 CEL Total rewards paid in coin	77,315,612.35 Total rewards paid in USD	56.04% Total HODLers Percentage(?)	2018-10-08 First Reward Date

